

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CIVIL APPLICATION No. 1563 of 2001****For Approval and Signature:****HONOURABLE MR.JUSTICE KS JHAVERI**

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
 - 2 To be referred to the Reporter or not ?
 - 3 Whether their Lordships wish to see the fair copy of the judgment ?
 - 4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
 - 5 Whether it is to be circulated to the civil judge ?

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META CASTE ENGINEERING WORKS - Petitioner(s)

Versus

BADARJI BHATHIJI CARE OF GENERAL ENGINEERING MAJDOOR - Respondent(s)

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Appearance :

MR RC JANI for Petitioner(s) : 1,
RULE SERVED BY DS for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI**Date : 02/12/2005****ORAL JUDGMENT**

1. This petition is directed against the award dated 10.07.2000 passed by the Labour Court, Ahmedabad in reference (LCA)No.573/1990 (Original Reference No.290/83)

whereby the Labour Court has directed the petitioner to reinstate the respondent on his original post with continuity of service and full backwages. The Labour Court also directed the petitioner to pay Rs. 1000/- as costs to the respondent-workman.

2. The brief facts of the case are that the respondent was appointed as a watchman on 02.12.81 on purely temporary basis. On 12.07.82 there was a theft in the petitioner factory and the respondent was on duty on that day as watchman. As he was not vigilant during duty hours, the petitioner company decided to initiate departmental inquiry against the respondent and for the same two show cause notices were served upon him. However, the respondent did not remain present for the inquiry on both the occasions. As a result, the petitioner company decided to proceed ex-parte in the departmental inquiry. Subsequently, in the inquiry it was found that the respondent was involved in the theft case and therefore, his services were required to be terminated. The respondent was terminated from service on 16.10.2000. Being aggrieved by this, the respondent raised an industrial dispute which was referred to the Labour Court, Ahmedabad. The Labour Court passed the

aforesaid award.

3. Mr. R.C Jani, learned advocate for the petitioner contended that during the tenure of the respondent as a watchman, there were several instances of theft and after conducting proper inquiry he was dismissed from service.

4. Though served none appears for the respondent.

5. As a result of hearing and perusal of records, I am of the view that the Labour Court has not considered the fact that the respondent himself has admitted the theft. Moreover, the petitioner has lost confidence in the respondent who was working as a security personnel in the petitioner company which is in manufacturing activity and a watchman is required to keep vigilance on the raw material as well as finished products. In that view of the matter, I am of the opinion that the Labour Court has committed an error in granting reinstatement with continuity of service and full backwages.

6. Moreover, from the records it is clear that the respondent has not performed his duties properly and there was some omission on his part as regards to the

vigilance because of which the petitioner lost the goods. On the facts and circumstances of the case, I am of the view that such an employee cannot be reinstated as a watchman in the petitioner company. The award of the Labour Court is required to be quashed and set aside.

7. In the premises aforesaid, this petition is allowed. The impugned award of the Labour Court is quashed and set aside. Rule made absolute with no order as to costs.

(K.S. JHAVERI, J.)

Divya//